

**Securities and Exchange Commission of Pakistan
Securities Market Division,
NIC Building, Jinnah Avenue,
Blue Area, Islamabad.**

June 21, 2002

BEFORE THE COMMISSIONER (SECURITIES MARKET)

Mrs. Naela Turab Ali

... Complainant

Versus

Mian Nusrat-ud-Din
(Member, Lahore Stock Exchange (Guarantee) Limited)

... Respondent

Date of Hearing : October 24, 2001

Present at the Hearing:

1. Mrs. Naela Turab Ali	.....	Complainant
2. Mian Nusrat-ud-Din	.....	Respondent
3. Mr. Aamir Zareef Khan	.....	Representing LSE

To assist the Commissioner (SM):

1. Syed Aamir Masood	.....	Director (S-III)
2. Ms. Mahreen Rasheed	.....	Junior Executive (SM)

ORDER

1. The matter before me arises from a Complaint dated 26.04.2001 (the "Complaint") filed by Mrs. Naela Turab Ali (the "Complainant") against Mr. Nusrat-ud-Din (the "Respondent"), Member, Lahore Stock Exchange (Guarantee) Limited ("LSE").

2. In her complaint the Complainant has alleged that she started trading in the stock market in January 2000. She opened an account with the Respondent on 24.01.2000 and initially bought the following shares of various companies upon the advise of the Respondent's office:

- i. 3000 P.T.C shares @ Rs. 29.00 per share;
- ii. 3000 Adamjee shares @ Rs. 93.50 per share;
- iii. 3000 Hubco shares @ Rs. 28.00 per share;
- iv. 3000 Fauji Fertilizer shares @ Rs. 66.00 per share; and
- v. 3000 Sui Northern shares @ Rs. 21.00 per share.

3. The first allegation of the Complainant is that in February 2000 the Respondent's office sold Complainant's 3000 shares of Hubco @ Rs. 29.00 per share without her knowledge or permission and she was not informed when the sale was made.

4. The second allegation is that from March 2000 to October 2000, the Respondent's office induced the Complainant to purchase the shares of PSO despite the fact that the prices of PSO shares kept on dropping drastically and that the Complainant did not pay the requisite security deposit. The Complainant, any way, continued paying the difference till the prices dropped to Rs. 190.00 per share in the first week of May 2000. The prices further dropped to Rs. 172.00 per share and the Respondent's office demanded Rs. 600,000/- from the Complainant to make good the difference under the threat that if the Complainant would not pay the amount, the Respondent would ban her trading with his brokerage house. On 26.05.2000 Respondent's office sold the Complainant's shares @ Rs. 159.00 per share without her permission or knowledge. In the first week of October 2000, the Respondent's office informed the Complainant that her whole security deposit had been used up and demanded more money in case the Complainant wanted to carry on trading. The Complainant has claimed that she sent the following amounts to the Respondent through cheques:

Date	Amount
24 th January 2000	Rs. 100,000/-
20 th February 2000	Rs. 100,000/-
1 st March 2000	Rs. 65,000/-
21 st March 2000	Rs. 35,000/-
25 th March 2000	Rs. 100,000/-

29 th March 2000	Rs. 100,000/-
10 th April 2000	Rs. 100,000/-
25 th April 2000	Rs. 200,000/-
29 th April 2000	Rs. 200,000/-
5 th May 2000	Rs. 300,000/-
10 th May 2000	Rs. 200,000/-
15 th May 2000	Rs. 200,000/-
16 th May 2000	Rs. 600,000/-
1 st June 2000	Rs. 300,000/-
19 th September 2000	Rs. 50,000/-
TOTAL :	Rs. 2,650,000/-

The Complainant has further alleged that the Respondent's office handled her account very carelessly, the Respondent kept on advising the Complainant to purchase shares despite falling share prices. The Respondent did not sell the Complainant's shares as and when advised by her, the Respondent's agents threatened her and abuse their position and the Respondent's office caused an accumulated loss of Rs. 26.50 lacks (Rs. 2.65 million) to the Complainant.

5. In his written reply dated 8.5.2001, the Respondent has refuted all the charges leveled by the Complainant. With his reply, the Respondent enclosed the signed account opening form of the Complainant, her account opening CDC account, a copy of her Identity Card (I.D Card) and a statement of her accounts.

6. The Respondent has contended that on 24.01.2000 the Complainant started the business with purchase of 1500 shares worth Rs. 712,500/- against a security deposit of Rs. 100,000/- and onward business in her account was conducted strictly according to her telephonic instructions. Her shares in HUBCO were sold on her telephonic permission to cover her trading losses.

7. As to the Complainant's shares in PSO, the Respondent has contended that the Complainant started trading on 8.2.2000 and not on 17.3.2000 as alleged in the Complaint, the shares were sold according to the telephonic orders of the Complainant, the Respondent's office never gave any wrong information to the Complainant, the Respondent's office did not handle Complainant's trading account carelessly, every time the rates of PSO dropped, the Complainant would not sell or save the loss, on the other hand she would hold the shares and pay the loss against the advise of the Respondent, on 15.05.2000 instead of squaring up of her position according to the Respondent's advise the Complainant paid Rs. 600,000 to carry on the trade, the Complainant directly rang up the

Respondent any time she wanted to talk to him, and on 13.10.2000 when the Complainant's security had finished with debit balance of Rs. 4,534/- the Respondent stopped the Complainant from further trading. The Respondent has further contended that his office has been carrying on the Complainant's orders according to her instructions and since she indulged in speculative trading, she alone is responsible for her losses. The Respondent has stated that his office always provided the Complainant with the statement of her trading account and that the Complainant was fully aware of her actions of trading at LSE as she had installed Wavetech Information System at her residence.

8. I have heard the parties and perused the entire record on the case file. In my opinion the controversy between the parties can be condensed to the following three points:

- i. Whether the losses accrued to the Complainant were due to the failure of the Respondent in performance of his duties as a Member LSE?
- ii. Whether certain trades that were executed by the Respondent on behalf of the Complainant were not authorized by the Complainant?
- iii. Whether the Respondent did not provide the statement of account and trade confirmation slips to the Complainant?

9. The Complainant is an educated lady and she appears to be well conversant with the trades as well as the terminology used in securities market. The installation of Wavetech Information System at her house alone is a sufficient proof of this fact. The correspondence of the Complainant with the Commission also proves her up to date knowledge and information about trading in securities market.

10. The Respondent has repeatedly stated in his reply as well as during his arguments that the Complainant placed orders for each trade on telephone. The Complainant had not denied this fact. In her complaint and during her arguments the Complainant has admitted that most of her trades were result of her telephonic permission to the Respondent.

11. After thorough scrutiny of the ledger statements, I have observed that the Complainant was trading aggressively and was involved in speculative trading.

12. The Complainant has time and again stated that the Respondent executed the trades on her behalf without her authorization. It is abundantly clear from the ledger statement of the

Complainant's trades that she was depositing money with the Respondent to make good the losses. She was, therefore, endorsing all the trades being executed on her behalf by the office of the Respondent. Had the Complainant not paid the losses to the Respondent she would have a case against the Respondent. I find force in the arguments of the Respondent that the Complainant kept on trading aggressively in the scrip of PSO with the hope to recover her losses. Since the market was bearish, therefore, she had to suffer huge losses instead of gaining profit as a result of speculative trading by her. The ledger statements also show that from 24.01.2000 till 13.10.2000, majority of the amounts deposited by the Complainant with the Respondent were for the purpose of meeting her trading losses incurred from time to time.

13. The ledger statements further reveal that the Complainant made total purchases worth Rs. 235,634,844 and sales amounting to Rs. 232,980,410 through the Respondent's brokerage house from 24.01.2000 to 13.10.2000, thereby making accumulative loss of Rs. 2,654,434 on account of her trading. Against this amount the Complainant deposited a total amount of Rs. 2,650,000 with the Respondent on account of her trading losses. Therefore, the Complainant still owes an amount of Rs. 4,434/- to the Respondent.

14. In view of the above, I find no force in the arguments of the Complainant that she suffered losses due to Respondent's office. The fact of the matter is that investment in stock market carry risk and any investor making investment in shares have to bear this thing in mind that investment in stock market carry risk of loss. The complainant started trading in the month of February 2000 when the share prices were high and the KSE-100 index was around 2000 level, which dropped to about 1560 in September 2000. The investors who invested when the prices were high and sold when prices were low had to suffer losses. It is the responsibility of an investor to know the risks involved in the share business and the extent to which one can afford to bear such losses. If investors start blaming brokers and start demanding compensation for losses on orders routed through brokers, the stock exchanges would not be able to function. In this particular case the timing of investment was not in favour of the Complainant, therefore, she suffered losses. I, therefore, see no justification in the Complainant's request for recovery of money from the Respondent. This point is also decided against the Complainant.

15. It is observed with regret that the Respondent provided no statement of account and specially the rate confirmation slips to the

Complainant. When I inquired during hearing of the case from the Respondent as to why the trade confirmation slips were not provided to the Complainant, he replied that he did not have the address of the Complainant. This argument of the Respondent was misconceived keeping in view the fact that the copy of the I.D Card of the Complainant which was attached to the account opening form and which the Respondent himself produced with his reply contained the address of the Complainant. Moreover, the agents and the officials of the Respondent who had been taking telephonic orders from the Complainant could easily know her address. This state of affairs otherwise speaks of gross negligence on the part of the Respondent who failed to know the address of the Complainant after trading with the Complainant for about a year.

16. I, therefore, hold that the Respondent made no serious effort to provide the Complainant with the statements of her trades and confirmation slips.

17. In view of the foregoing, there remains no doubt in my mind that the Respondent has committed a violation of Rule 4(4) of the Securities and Exchange Rules, 1971 which requires the brokers to deliver a trade confirmation to the client with 24 hours of a trade having been executed. Therefore, I invoke section 22 of the Securities and Exchange Ordinance, 1969 (the Ordinance) and impose the penalty of Rs. 100,000 on the Respondent with a direction to deposit the said amount in the collection account of the Securities and Exchange Commission of Pakistan within 14-days of the date of this Order failing which the membership of the Respondent in LSE shall be deemed suspended forthwith.

18. I also find that the Respondent's statement regarding his inability to provide trade confirmation to the Complainant because no address was provided by the Complainant is false for the reasons given above. The Respondent has, therefore, committed violation of section 18 of the Ordinance. The submission of false statement is a grievous offense, which undermines the Commission's role in the markets and causes a threat to the fair administration of the securities markets as a whole. As such, I have no hesitation in awarding the full penalty of Rs. 100,000 on the Respondent pursuant to section 22 of the Ordinance with a direction to deposit the said amount in the collection account of the Securities and Exchange Commission of Pakistan within 14-days of the date of this Order failing which the membership of the Respondent in LSE shall be deemed suspended forthwith.

19. A copy of this Order is directed to be sent to the Managing Director, LSE for compliance and necessary action.

(SHAHID GHAFAR)
COMMISSIONER (SM)

ISLAMABAD:
DATED : June 21, 2002